

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. _____

IN RE: Application of Nexus Communications, Inc. for Designation as a Wireless Eligible Telecommunications Carrier for Low Income Support Only Pursuant to 47 USC § 214(e)
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APPLICATION OF NEXUS COMMUNICATIONS, INC.
FOR DESIGNATION AS A WIRELESS ELIGIBLE TELECOMMUNICATIONS
CARRIER
FOR LOW INCOME SUPPORT ONLY

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Nexus Communications, Inc. (“Nexus”) respectfully submits this application for designation as a wireless eligible telecommunications carrier (“ETC”) in the State of South Carolina, pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (“Act”),¹ Section 54.201 *et seq.* of the Federal Communication Commission’s (“FCC”) rules, and S.C. Code Ann. Regs. §103-690 *et seq.*² Nexus seeks ETC designation exclusively for the purpose of receiving federal Lifeline universal service support throughout the non-rural areas of South Carolina, as indicated in **Exhibit A** hereto (the “Designated Service Area”). Nexus has been a *wireline* Low Income ETC in South Carolina since June 2009.³

¹ 47 U.S.C. § 214(e)(6).

² S.C. Code Ann. Regs. §§103-690, 103-690.1.

³ Order No. 2009-316, Docket No. 2008-275-C (June 10, 2009).

Nexus is organized under Ohio law and is headquartered in Columbus, Ohio. It is owned by Steven Fenker, Nexus' President. Nexus operates its wireless business under the name ReachOut Wireless. Nexus' address and telephone number are set forth below:

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I. OVERVIEW OF NEXUS

Nexus⁴ is a telecommunications carrier committed to serving the specific communications needs of low income Americans. Nexus has already received ETC designation in twenty-six states, including South Carolina with respect to its wireline service, pursuant to

⁴ A copy of Nexus' Articles of Incorporation is attached as **Exhibit B**. A copy of Nexus' Certificate of Authorization to do business in South Carolina is attached as **Exhibit C**. These documents are already on file with this Commission by virtue of Nexus' 2009 ETC designation for its wireline service in South Carolina. *See* note 3 *supra*.

which it receives Low Income funding.⁵ Nexus engages in extensive outreach efforts to fulfill the key objective of the Low Income program – providing the supported telecommunications and related services to low income Americans. Its efforts include a program, recognized by the Federal-State Joint Board on Universal Service,⁶ in which its mobile information vehicles visit economically disadvantaged neighborhoods and provide information about the Low Income program. Nexus offers prepaid wireless prepaid services in many of its states, which give low income consumers a simple and effective means of obtaining critically needed communications services while managing their family budgets and avoiding bill shock.⁷

In the second quarter of 2009, at about the time of this Commission’s grant of ETC designation for Nexus’ wireline service and after several years serving consumers, including low income consumers, in other states via wireline technology, Nexus began to offer wireless services in recognition of the high demand for such services in the communities it serves. Consumers indicated a strong preference for mobile wireless services and Nexus has worked to satisfy this demand by growing and investing in wireless technology. Nexus’s wireless offerings have been very successful with Lifeline participants, and Nexus now provides prepaid wireless services to Lifeline participants in eighteen states.⁸ This success in meeting the objectives of the Low Income program – getting phone service to this underserved population – is due in large

⁵ Nexus became a competitive local exchange carrier in 2000, and received its first ETC designation in June 2006. Nexus now focuses on providing service to low income consumers. It provides service to these consumers using wireline technology in South Carolina and in Alabama, Florida, Kentucky, North Carolina, Oklahoma, Tennessee, and Texas; it serves consumers using both wireline and wireless technology to Low Income participants in Arkansas, Illinois, Kansas, Louisiana, Michigan, Mississippi, and Wisconsin; and it uses only wireless technology to serve low income consumers in California, Georgia, Iowa, Maine, Maryland, Missouri, Nevada, New Jersey, Ohio, Rhode Island and West Virginia. Although ETCs may receive funding from both the federal High Cost and Low Income programs, Nexus has declined all High Cost funding and therefore, only receives Low Income funding.

⁶ *In Re Federal-State Joint Board on Universal Service; Lifeline and Link Up*, Recommended Decision, 2010 FCC LEXIS 6557, at ¶ 64 (Jt. Bd. rel. Nov. 4, 2010). Attached, as **Exhibit D**, is a photograph of one of Nexus’ mobile outreach vehicles and campaigns.

⁷ *In Re Empowering Consumers to Avoid Bill Shock Consumer Information and Disclosure*, Comments of Nexus Communications, Inc., CG Docket Nos. 10-207, 09-158 (filed Jan. 10, 2011).

⁸ See note 5 *supra*.

part to prepaid wireless services' unique ability to meet the needs of Americans who are most at risk and most in need, providing a crucial link to jobs, healthcare services, education and other vital information.⁹ By this application Nexus seeks to add these attractive prepaid wireless services to its already authorized wireline Lifeline ETC service in South Carolina.

II. NEXUS MEETS THE REQUIREMENTS FOR ETC DESIGNATION

Nexus satisfies all of the statutory and regulatory requirements for designation as an ETC in the proposed Designated Service Area, and has provided below a discussion of each requirement below.

A. Nexus is a Common Carrier (47 U.S.C. § 214(e)(1))

A threshold requirement for designation as an ETC is that the applicant must be a common carrier. Nexus proposes to serve consumers in the Designated Service Area through wireless technology, *i.e.*, Commercial Mobile Radio Service ("CMRS"). Under Section 332(c)(1)(A) of the Communications Act, an entity providing CMRS services is a common carrier.¹⁰

B. Nexus Offers the Services Supported by the Federal Universal Service Support Mechanism (47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.101; S.C. Code Ann. Regs. §103-690.C(a))

Nexus will provide the services supported by federal Lifeline universal service support mechanism upon designation as a wireless ETC, as defined in recently revised 47 C.F.R. § 54.101(a), which reads as follows:

Services designated for support. Voice telephony services shall be supported by federal universal support mechanisms. Eligible voice telephony service must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency

⁹ See attached, as **Exhibit E**, a white paper that more fully discusses the benefits of prepaid wireless services for the target demographic.

¹⁰ 47 U.S.C. § 332(c)(1)(A).

services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible telecommunications carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).¹¹

Nexus complies with revised 47 C.F.R. § 54.101(a) and provides the services designated for support, as set forth below:

1. Voice Grade Access to the Public Switched Network

Voice grade access to the public switched network is the ability to transmit and receive voice communications with a minimum bandwidth of 300 to 3,000 Hertz. Nexus meets this requirement through its provision of mobile voice communications service that includes the ability to intercommunicate with the public switched telephone network.

2. Minutes of Use for Local Service Provided at No Additional Charge

Local usage refers to an amount of minutes of use provided free of additional charge to the end user. Nexus meets this requirement by providing calling plans that all offer a nationwide local calling area permitting customers to call anywhere in the United States with no toll charges.

3. Access to Emergency Services

ETCs are required to provide access to both 911 and E911 services to the extent the local government has implemented such services. Nexus meets this requirement by providing access to 911 service and meeting all requests for access to E911 service through local public safety answering points ("PSAPs"), including forwarding automatic numbering information ("ANI") and automatic location information ("ALI") to PSAPs as appropriate.

4. Toll Limitation for Qualifying Low Income Consumers

¹¹ 47 C.F.R. § 54.101(a) (2012).

Nexus will meet this requirement by offering service on a prepaid, or pay-as-you-go, basis. Moreover, Nexus' calling plans do not distinguish between local or toll services for domestic calls (i.e., nationwide calling). As the FCC found in its grant of ETC designation to Virgin Mobile, "the prepaid nature of [a prepaid wireless carrier's] service offering works as an effective toll control."¹² Nexus will provide this toll control to qualifying low income consumers at no additional charge. Nexus also provides its users with the ability to monitor their minute usage and balance as an additional means of controlling their communications budget.

C. Nexus Will Provide the Supported Services Throughout Its Designated Service Areas On a Timely Basis Upon Reasonable Request (47 C.F.R. § 54.201(d); S.C. Code Ann. Regs. §103-690.C(a)(1)(A))

Nexus hereby certifies that it will provide the supported services throughout its proposed Designated Service Area to all customers making a reasonable request for service on a timely basis, consistent with all applicable requirements. To the extent a potential customer requests service within Nexus' Designated Service Area, but outside its existing network coverage, Nexus will, in cooperation with its carrier vendor, follow the six-step process specified in S.C. Code Ann. Regs. §103-690.C(a)(1)(A). Specifically, Nexus will determine if service can be provided with the cooperation of its vendor at reasonable cost to the requesting customer by: (a) modifying or replacing the requesting customer's equipment; (b) deploying a roof-mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting network or customer facilities; (e) reselling services from another carrier's facilities to provide service; or (f) employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment.

¹² *In Re Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); etc.*, Order, 24 FCC Rcd 3381, 3394 at ¶ 34 (FCC rel. Mar. 5, 2009).

D. Nexus Will Advertise the Availability of the Supported Services and the Charges Therefor Through Media of General Distribution (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. §§ 54.201(d)(2), 54.405(b),(c); S.C. Code Ann. Regs. §103-690.C(a)(1)(C))

Nexus commits to advertise the availability of and the charges for its supported Lifeline services through media of general distribution. Accordingly, see the Affidavit submitted hereto as **Exhibit F** in compliance with S.C. Code Ann. Regs. §103-690.C(a)(5)-(7). This advertising will appear in a combination of media outlets such as television, radio, newspaper, magazines, outdoor advertising, direct marketing, and the Internet. Nexus will also engage in extensive in-person outreach efforts to further advertise the availability of the services and the charges for these services.

Further, Nexus submits as **Exhibit G**, pursuant to S.C. Code Ann. Regs. §103-690.C(a)(1)(C), its two-year plan describing its plans for advertising and outreach programs for identifying, qualifying, and enrolling eligible participants in the Lifeline program.

E. Nexus Will Remain Functional in Emergency Situations (47 C.F.R. § 54.202(a)(2); S.C. Code Ann. Regs. §103-690.C(a)(2))

Nexus commits to remaining functional in emergency situations. With respect to the portion of the supported services being provided via resale of another carrier's facilities, that carrier is a large, national carrier that is itself subject to various regulatory requirements to remain functional in emergencies, in full compliance with the Commission's rules, including access to a reasonable amount of back-up power to ensure functionality without an external power source, rerouting of traffic around damaged facilities, and managing traffic spikes resulting from emergency situations.

F. Nexus Will Satisfy All Applicable Consumer Protection and Service Quality Standards (47 C.F.R. § 54.202(a)(3); S.C. Code Ann. Regs. §103-690.C(a)(3))

Nexus certifies that it will comply with all applicable State and federal consumer protection and service quality standards. Specifically, Nexus certifies that it will abide by the CTIA's Consumer Code for Wireless Service ("CTIA Code"). Nexus has already adopted the CTIA Code and is committed to compliance with the Code throughout its wireless service areas, including those in which it now seeks designation as a wireless ETC in South Carolina.

G. Local Usage Plan (S.C. Code Ann. Regs. §103-690.C(a)(4))

Nexus' calling plans provide local calling capability comparable to that offered by the relevant incumbent local exchange carriers ("ILECs") in its operating areas. All of Nexus' calling plans feature a nationwide local calling area, permitting customers to use their minutes to call anywhere in the United States with no toll charges, including, of course, all local calls. Indeed, Nexus' offerings will be more attractive than the ILEC calling plans, because it is offering a much larger, nationwide calling plan, in addition to mobility and additional features.

H. Equal Access (S.C. Code Ann. Regs. §103-690.C(a)(5))

Nexus certifies its acknowledgment that it may be required to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area. *See* the Affidavit submitted hereto as **Exhibit F**. Nexus will comply with all Commission orders regarding any future obligation of wireless carriers to provide equal access.

I. Forbearance from the Facilities Requirement of 47 U.S.C. §214(e)(1)(A) and S.C. Code Ann. Regs. §103-690.C(a)(6)

In its recent *Lifeline Reform Order*, the FCC granted conditional forbearance for Lifeline ETCs, provided that these ETCs receive FCC approval of a compliance plan.¹³ Nexus filed the necessary Compliance Plan with the FCC to receive forbearance from the "own facilities"

¹³ *In Re Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*") at ¶ 368.

requirement of 47 U.S.C. § 214(e)(1)(A), and its amended Compliance Plan was approved by the FCC on December 26, 2012. A copy of Nexus' FCC Compliance Plan and the FCC Public Notice announcing its approval are included at **Exhibit H** hereto.¹⁴

J. Nexus Will Make Available Lifeline Service to All Qualifying Low-Income Consumers (47 C.F.R. §54.405; S.C. Code Ann. Regs. §103-690.1(E))

Upon designation as a wireless ETC, Nexus will make available to all qualified low income consumers in the Designated Service Area a discounted service offering that meets all applicable Lifeline requirements, including those in S.C. Code Ann. Regs. §103-690.1(E)(a). Nexus will offer several attractive prepaid wireless Lifeline calling plans, all of which include local as well as long distance calling. Nexus intends to offer the following prepaid wireless service plans to Lifeline subscribers in South Carolina:

250 Minute Plan (non-rollover): Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic Short Message Service (“SMS”) text messages do not carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.

125 Minute Plan (rollover): Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.

Further details regarding Nexus' calling plans are provided in its approved FCC Compliance Plan, attached hereto as **Exhibit H**.

K. Nexus Will Comply with the FCC's New Consumer Eligibility Certification and Verification Rules and Financial and Technical Qualifications Requirements (47 C.F.R. §§ 54.409, 54.410, 54.201(h))

¹⁴ *In Re Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible to Receive Universal Service Support, et al.*, Third Amended Compliance Plan of Nexus Communications, Inc., WC Dockets 11-42 and 09-197 (filed Dec. 4, 2012), *approved*, FCC Public Notice DA 12-2063 (rel. Dec. 26, 2012) (**Exhibit H** hereto). In light of this new forbearance policy, Nexus respectfully submits that the “own facilities” certification by affidavit formerly mandated by S.C. Code Ann. Regs. §§103-690.C(a)(6) is not required.

Nexus will comply with the FCC's revised regulations pertaining to certification of eligibility and verification of continued eligibility for Lifeline benefits. The FCC's recent *Lifeline Reform Order* made significant changes to 47 C.F.R. § 54.410 (subscriber eligibility determinations and certification) and 47 C.F.R. § 54.416 (annual verifications, now called "re-certifications"). Nexus will certify and re-certify consumer eligibility in strict conformance with these revised regulations. Nexus' specific policies and practices with respect to subscriber eligibility and annual verifications of continued eligibility are described in detail in Section II of its approved FCC Compliance Plan, attached hereto as **Exhibit H**.

In addition, in its *Lifeline Reform Order*, the FCC amended its rules to require a carrier seeking designation as a Lifeline-only ETC to demonstrate that it is financially and technically capable of providing the supported Lifeline service. Nexus' financial and technical qualifications are described in detail in Section I.B of its approved FCC Compliance Plan.

III. GRANT OF THIS APPLICATION WILL SERVE THE PUBLIC INTEREST

Among the principal goals of the Communications Act, as amended by the Telecommunications Act of 1996, are "to secure lower prices and higher quality services for American Telecommunications consumers and encourage the rapid deployment of new telecommunications technologies" to all citizens, regardless of geographic location or income.¹⁵ Designation of Nexus as a wireless ETC will serve the overall public interest, and will benefit low income customers in South Carolina, in compliance with the public interest standard of S.C. Code Ann. Regs. §103-690.C(b).

Nexus has tailored its wireless service plans to provide the numerous benefits of mobile wireless telecommunications to underserved customers who have been left behind by other providers. Nexus offers voice service at affordable rates to economically disadvantaged

¹⁵ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

customers who desire affordable wireless services. Nexus plays a critical role in the marketplace by ensuring that Americans who cannot qualify for or afford other carriers' services can still enjoy the benefits of wireless telecommunications.

For many years, Nexus' mission has been increasing access to basic telecommunications services for low income individuals who have been largely left behind by other carriers as evidenced by the historically low penetration rate among low income consumers. Nexus' customers are the many people who simply require affordable wireless service but cannot readily obtain it from other carriers who do not provide the discounted plans available to a wireless Lifeline ETC. With this application, Nexus seeks to make it easier for low income Americans to access basic telephone services, along with other features and functions, including text messaging. The primary purpose of universal service is to ensure that consumers, especially low income consumers, receive affordable and telecommunications services that are comparable to those enjoyed by the rest of the nation. Research has shown that these services are a vital economic resource for low income consumers, access to which leads to improved wage levels and personal safety.¹⁶ Given this context, designating Nexus as a wireless ETC would benefit consumers, especially the many low income customers eligible for Lifeline services.

Designation of Nexus as a wireless ETC would also promote competition by increasing competitive choices for low income South Carolina consumers, who will benefit from competitive pricing and new services. As Nexus expands its network in South Carolina, consumers will benefit from a high level of service quality and more service options. Nexus will bring the same entrepreneurial spirit that has reinvigorated the wireless industry in many states to South Carolina, which would help to redefine the wireless experience for many low income

¹⁶ See Sullivan, N.P., *Cell Phones Provide Significant Economic Gains for Low Income American Households: A Review of Literature and Data from Two New Surveys*, April 2008, available at http://www.newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf.

consumers. Other carriers, therefore, will have the incentive to improve their own service offerings and tailor their service plans to contain terms and features appealing to lower-income customers.

Nexus has emphasized customer service as a pillar of its business since it launched its first carrier services in 2000. As evidence of its commitment to high-quality service, Nexus has complied with the CTIA Code since it began offering wireless services.

While Nexus has had success deploying wireless services to many low income consumers in other states, some low income customers still intermittently discontinue service because of economic constraints. Wireless ETC designation in South Carolina would enable Nexus to offer even more appealing and affordable service offerings to these customers and ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, wireless services have become essential for lower-income citizens, providing them with value for their money, access to emergency services on wireless devices, and reliable means of contact for prospective employers, social service agencies, or dependents.

Providing Nexus with the authority necessary to offer discounted wireless Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.¹⁷

IV. ANNUAL REPORTING REQUIREMENTS

Consistent with the requirements of revised 47 C.F.R. § 54.422 and with 26 S.C. Code Regs. 103-690.1, Nexus will comply with all applicable federal and state annual reporting requirements.

¹⁷ Nexus is including, as **Exhibit I**, letters from National Consumers League and Consumer Action in support of wireless Lifeline programs such as the programs proposed by Nexus in this application.

V. CONCLUSION

Nexus respectfully requests designation as a wireless ETC for the Designated Service Area for the purpose of receiving federal Low Income universal service support.

Dated this 31st day of December, 2012.

Respectfully submitted,

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List of Exhibits

Exhibit A – Designated Service Area

Exhibit B – Articles of Incorporation

Exhibit C – Certificate of Authority

Exhibit D – Outreach Photograph

Exhibit E – White Paper on Benefits of Prepaid Wireless

Exhibit F – Officer's Affidavit

Exhibit G – Two Year Plan for Advertising and Outreach Programs

Exhibit H – FCC Compliance Plan and FCC Public Notice Announcing Approval

Exhibit I – Letters of Support